

# 16. CHARTER BUS

## BASIC REQUIREMENT

FTA grantees are prohibited from using Federally funded equipment and facilities to provide charter service if a registered private charter operator expresses interest in providing the service. Grantees are allowed to operate community based charter services excepted under the regulations.

## AREAS TO BE EXAMINED

1. *Charter Service*
2. *Reporting*
3. *Use of Locally Owned Vehicles*
4. *Training*
5. *Oversight*
6. *Advisory Opinions*
7. *Cease and Desist Orders*
8. *Complaints*

## REFERENCE

1. [49 CFR Part 604](#), "Charter Service"; Final Rule; Federal Register, January 14, 2008

## USEFUL WEB LINKS

[ombudsman.charterservice@dot.gov](mailto:ombudsman.charterservice@dot.gov)

[Charter Home Page](#)

[Charter Registration Website](#)

[Questions and Answers](#)

[Charter Resources](#)

[Charter Dockets](#)

[Reporting form and instructions](#)

[Other Forms](#)

# QUESTIONS FOR THE REVIEW

1. *Does the grantee or its subrecipients, contractors, or lessees operate any charter service, as defined in the regulation? If yes, does the service fall under one or more of the allowed exceptions? If so, under what exception(s) is the charter service operated? Were the requirements of the exception followed?*

## EXPLANATION

The charter service regulations apply to all grantees and subrecipients that receive Section 5307, 5309, 5310, 5311, 5316, or 5317 funds. The regulations define charter service as follows:

1. Transportation provided at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristics of charter service:
  - a. A third party pays a negotiated price for the group
  - b. Any fares charged to individual members of the group are collected by a third party
  - c. The service is not part of the regularly scheduled service, or is offered for a limited period of time
  - d. A third party determines the origin and destination of the trip as well as scheduling
2. Transportation provided to the public for events or functions that occur on an irregular basis or for a limited duration and:
  - a. A premium fare is charged that is greater than the usual or customary fixed route fare; or
  - b. The service is paid for in whole or in part by a third party.

Examples of service that do not meet the definition of charter service and, therefore, are not considered charter service by FTA are:

- Service requested by a third party that is irregular or on a limited basis for an exclusive group of individuals and the grantee does not charge a premium fare for the service and there is no third party paying for the service in whole or in part.
- Shuttle service for a one-time event if the service is open to the public, the itinerary is determined by the grantee, the grantee charges its customary fixed route fare and there is no third party involvement.

- When a university pays the grantee a fixed charge to allow all faculty, staff, and students to ride the transit system for free so long as the grantee provides the service on a regular basis along a fixed route and the service is open to the public.
- When the grantee sees a need and wants to provide service for a limited duration at the customary fixed route fare.

The charter regulations include **exemptions** and **exceptions**. Exemptions, which are not considered charter service, require no notification to registered charter providers, record-keeping, quarterly reporting, or other requirements. Exceptions are considered charter service and have administrative, record-keeping, and reporting requirements.

## Exemptions

The charter service regulation **exempts** the following services:

1. Transportation of Employees, Contractors, and Government Officials: Grantees are allowed to transport their employees, other transit systems' employees, transit management officials, transit contractors and bidders, government officials and their contractors, and official guests to or from transit facilities or projects within its geographic service area or proposed geographic service area for the purpose of conducting oversight functions such as inspection, evaluation, or review.
2. Private Charter Operators: The prohibitions do not apply to private charter operators that receive, directly or indirectly, Federal financial assistance under the over-the-road bus accessibility program or to non-FTA funded activities of private charter operators that receive, directly or indirectly, FTA financial assistance.
3. Emergency Preparedness Planning and Operation: Grantees are allowed to transport their employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors, and official guests for emergency preparedness planning and operations.
4. Section 5310, 5311, 5316 and 5317 Recipients: The prohibitions do not apply to grantees that use Federal financial assistance from FTA for program purposes, that is, transportation that serves the needs of either human service agencies or targeted populations (elderly,

individuals with disabilities) under Section 5310, 5311, 5316, or 5317. Program purposes does not include exclusive service for other groups formed for purposes unrelated to the special needs of the identified targeted populations.

5. Emergency Response: Grantees are allowed to provide service for up to 45 days for actions directly responding to an emergency declared by the president, governor, or mayor or in an emergency requiring immediate action prior to a formal declaration.
6. Recipients in Non-Urbanized Areas: Grantees in non-urbanized areas may transport employees, other transit systems' employees, transit management officials, and transit contractors and bidders to or from transit training outside its geographic service area.

### Exceptions

The charter regulation **excepts** the following community based charter services. The grantee must retain records of each charter service provided for at least three years. Charter service hours include time spent transporting passengers, time spent waiting for passengers, and "deadhead" hours (time spent getting from the garage to the origin of the trip and then the time spent from trip's ending destination back to the garage).

1. Government Officials: A grantee is allowed to provide charter service (up to 80 charter service hours annually) to government officials (Federal, state and local) for official government business, which can include non-transit related purposes, if the grantee:
  - a. Provides the service in its geographic service area
  - b. Does not generate revenue from the charter service, except as required by law

The grantee may petition FTA for additional charter service hours.

The grantee is required to record the following information after providing such service:

- a. The government organization's name, address, phone number, and email address
- b. The date and time of service
- c. The number of government officials and other passengers
- d. The origin, destination, and trip length (miles and hours)
- e. The fee collected, if any
- f. The vehicle number for the vehicle used to provide the service

2. Qualified Human Service Organization (QHSO): A grantee is allowed to provide charter service to a QHSO for the purpose of serving persons:
  - a. With mobility limitations related to advanced age
  - b. With disabilities
  - c. With low income

If the QHSO receives funding, directly or indirectly, from the programs listed in Appendix A of the regulation, the QHSO is not required to register on the FTA's charter registration website. Otherwise, the QHSO is required to register. The grantee may provide service only if the QHSO is registered at least 60 days before the date of the first request for charter service.

The grantee is required to record the following information after providing such service:

- a. The QHSO's name, address, phone number and email address
- b. The date and time of service
- c. The number of passengers
- d. The origin, destination, and trip length (miles and hours)
- e. The fee collected, if any
- f. The vehicle number for the vehicle used to provide the service

3. Leasing of Equipment and Driver: A grantee is allowed to lease its FTA funded equipment and drivers to registered charter providers for charter service only if all of the following conditions exist:
  - a. The private charter operator is registered on the FTA charter registration website
  - b. The registered charter provider owns and operates buses or vans in a charter service business
  - c. The registered charter provider received a request for charter service that exceeds its available capacity either of the number of vehicles operated or the number of accessible vehicles operated by the registered charter provider
  - d. The registered charter provider has exhausted all of the available vehicles of all registered charter providers in the grantee's geographic service area

The grantee is required to record the following information after leasing equipment and drivers:

- a. The registered charter provider's name, address, telephone number, and email address
- b. The number of vehicles leased, type of vehicles leased, and vehicle identification numbers

- c. The documentation provided by the registered charter provider in support of the four conditions discussed above

4. No Response by Registered Charter Provider: A grantee is allowed to provide charter service, on its own initiative or at the request of a third party, if no charter provider registered on the FTA's website responds to the notice issued:

- a. Within 72 hours for charter service requested to be provided in less than 30 days, or
- b. Within 14 calendar days for charter service requested to be provided in 30 days or more.

The grantee is not allowed to provide charter service under this exception if a registered charter provider indicates an interest in providing the charter service described in the notice and the registered charter provider has informed the grantee of its interest in providing the service. This is true even if the registered charter provider does not ultimately reach an agreement with the customer.

If the grantee is interested in providing charter service under this exception, the grantee shall provide email notice to registered charter providers in the grantee's geographic service area by the close of business on the day the grantee received the request unless the request was received after 2:00 pm, in which case the notice shall be sent by the close of business the next business day. The email notice sent to the list of registered charter providers shall include:

- a. Customer name, address, phone number, and email address (if available)
- b. Requested date of service
- c. Approximate number of passengers
- d. Type of equipment requested (bus(es)) or van(s))
- e. Trip itinerary and approximate duration
- f. The intended fare to be charged for the service

The grantee shall retain an electronic copy of the email notice and the list of registered charter providers that were sent email notice of the requested charter service for a period of at least three years from the date the email notice was sent. If the grantee receives an "undeliverable" notice in response to its email notice, the grantee shall send the notice via facsimile. The grantee shall maintain the record of the undeliverable email notice and the facsimile sent confirmation for three years.

The grantee is required to record the following information after providing the service:

- a. The group's name, address, phone number, and email address

- b. The date and time of service
- c. The number of passengers
- d. The origin, destination, and trip length (miles and hours)
- e. The fee collected, if any
- f. The vehicle number for the vehicle used to provide the service

If a registered charter provider indicates interest in providing charter service to a particular customer and fails to negotiate in good faith with the customer, and the grantee was willing to provide the service, then the grantee can file a complaint against the registered charter provider. A [form](#) for this is provided on the FTA website.

5. Agreement with All Registered Charter Providers:

The grantee is allowed to provide charter service directly to a customer consistent with an agreement entered into with all registered charter providers in the grantee's service area. The grantee is allowed to provide charter service up to 90 days without an agreement with a newly registered charter provider in the geographic service area subsequent to the initial agreement. Any parties to an agreement may cancel the agreement after providing a 90 day notice to the grantee.

6. Petition to the Administrator: The grantee may petition the Administrator for an exception to the charter service regulations to provide charter service directly to a customer for:

- a. Events of regional or national significance. The petition shall describe how registered charter providers were consulted and will be utilized and include a certification that the grantee has exhausted all the registered charter providers in its service area. The petition must be submitted at least 90 days before the first day of the event.
- b. Hardship (only for non-urbanized areas under 50,000 in population or small urbanized areas under 200,000 in population). The exception is only available if the registered charter providers have deadhead time that exceeds total trip time from initial pick-up to final drop-off, including wait time. The petition shall describe how the registered charter provider's minimum duration would create a hardship on the group requesting the charter service.
- c. Unique and time sensitive events (e.g., funerals of local, regional, or national significance) that are in the public's interest. The petition shall describe why the event is unique and time sensitive and would be in the public's interest.

Petitions to the Administrator are posted at regulations.gov, which can be accessed through the FTA charter website, so they are not reported in quarterly reports. The grantee shall retain a copy of the Administrator's approval for a period of at least three years.

The table below summarizes the notification, record-keeping, quarterly reporting and other requirements applicable to each **exception**.

## REFERENCES

49 CFR Parts 604.2 (b) – (g) and 604.3 (c); Appendix C (c) (18), (24), (26) and (36)  
49 CFR Parts 604.6 – 604.11; Appendix A; Appendix C (a) (1), (3) and (6)  
Petitions to the Administrator

## SOURCES OF INFORMATION

The review will examine the grantee's charter procedures, if written, to ensure that they comply with the charter regulation. If the grantee has not developed written procedures, the reviewer will ask it

to provide information on how the exceptions are communicated and implemented within the organization. The grantee's brochures and website and the local telephone book will be checked to see if the grantee advertises charter service. Documents submitted as part of the Financial area of the review will be examined to determine if charter revenue is noted as a source of funds. Charter logs and reports submitted to FTA in TEAM-Web will be reviewed to provide information on types of charter services provided.

## DETERMINATION

The grantee is deficient if it operates charter service that does not comply with the requirements of the exception.

## SUGGESTED CORRECTIVE ACTION

If the grantee wishes to continue to provide charter service, the reviewer direct it to submit to the FTA regional office procedures for ensuring that services are consistent with the exceptions allowed under the charter regulation.

CHARTER SERVICE EXCEPTIONS				
Exception	Notification to Registered Charter Providers	Trip Record Keeping	Quarterly Reporting	Other Requirements
1. Government Officials	No	Yes	Yes	None
2. Qualified Human Service Organization (QHSO)	No	Yes	Yes	Evidence that QHSO receives funding, directly or indirectly, from the programs listed in Appendix A of the charter regulation or was registered at least 60 days before the date of the first request
3. Leasing of Equipment and Driver	No	Yes	Yes	Evidence that registered charter provider has exhausted all of the available vehicles of all registered charter providers in the grantee's geographic service area
4. No Response by Registered Charter Provider	Yes	Yes	Yes	None
5. Agreement with All Charter Providers	No	No	No	Properly executed agreements with all registered charter providers in grantee's geographic service area

CHARTER SERVICE EXCEPTIONS				
Exception	Notification to Registered Charter Providers	Trip Record Keeping	Quarterly Reporting	Other Requirements
6. Petition to the Administrator	Yes	No	No	Grantee must demonstrate how it contacted registered charter providers and how the grantee will use the registered charter providers in providing service to the event. Grantee must also certify that it has exhausted available registered charter providers' vehicles in the area.

2. *Did the grantee report all charter services provided under the exceptions by itself, subrecipients, contractors, and lessees? Were the quarterly reports submitted on time? Did they note under which exception the charter service was provided?*

#### EXPLANATION

Beginning July 30, 2008, grantees providing charter service under four of the exceptions shall post the required records on the FTA charter website using TEAM-Web within 30 days of the end of each calendar quarter as follows:

- October 1 to December 31: January 30
- January 1 to March 31: April 30
- April 1 to June 30: July 30
- July 1 to September 30: October 30

The reporting requirement applies to the following four exceptions:

- Government officials (604.6)
- Qualified human service organizations (604.7)
- Leasing (604.8)
- No response from a registered charter provider (604.9)

An FTA Charter Service Quarterly Exceptions Reporting Form and the instructions are available for downloading from the FTA website and appear at the end of this section.

The grantee reports for itself and its subrecipients, contractors, and lessees except subrecipients that are

also direct FTA grantees for Section 5307 formula funds.

When charter service is provided under one or more of the exceptions under this regulation, the grantee, subrecipient, contractor, or lessee is required to maintain notices and records in an electronic format for a period of at least three years from the date of service or lease. The grantee may maintain the required records in other formats in addition to the electronic format.

The records shall include a clear statement identifying which exception the grantee relied upon when it provided the charter service. A single document or charter log may include all charter service trips provided during the quarter. The grantee may exclude specific origin to destination information for safety and security reasons. If such information is excluded, the record of the service shall describe the reason why such information was excluded and provide generalized information.

#### REFERENCE

[49 CFR Part 604.12](#)  
[FTA Charter Reports](#)

#### SOURCES OF INFORMATION

The review will examine charter logs and quarterly reports submitted to FTA in TEAM-Web to ensure that the grantee submitted information for all exceptions under which it provided charter service. The quarterly reports are due 30 days after the end of each calendar quarter. FTA Charter Reports are accessible through TEAM-Web. The review will examine procedures for obtaining the information from subrecipients, contractors, and lessees for reporting to FTA.

## DETERMINATION

The grantee is deficient if it did not submit information for itself, subrecipients, contractors, or lessees for all applicable exceptions on time.

## SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit missing quarterly reports in TEAM-Web and to submit to the FTA regional office procedures for submitting the required information for all applicable exceptions on time.

3. *Does the grantee, a subrecipient, a contractor, or a lessee provide charter service with locally owned vehicles? If yes, are the vehicles stored and maintained in a locally funded facility?*

## EXPLANATION

The charter regulations do not apply to equipment that is fully funded with local funds, is stored in a locally funded facility, and is maintained with only local funds. A complete segregation is necessary to avoid the application of these requirements to charter services operated with locally owned vehicles.

## REFERENCE

[49 CFR Part 604](#) Appendix C (a)(8)

## SOURCES OF INFORMATION

Grantee records will be reviewed to ensure that the equipment is locally funded. Also, the reviewer will examine the bus fleet information provided and observed during the Satisfactory Continuing Control and Maintenance areas of the review. If the grantee operates charter service with equipment that is fully funded with local funds, the equipment must be stored in a locally funded facility and maintained with local funds.

## DETERMINATION

The grantee is deficient if it operates charter service with locally funded equipment but stores or maintains it in an FTA funded facility and is unable to provide documentation to show that it has completely segregated that service.

## SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA regional office a plan for ensuring that locally owned equipment used to provide charter service is not stored and/or maintained in an FTA funded facility and there is complete segregation of charter service operated with local equipment.

4. *How does the grantee ensure that its employees, subrecipients, contractors, and lessees have the necessary competency to effectively use the FTA charter registration website?*

5. *How does the grantee ensure that subrecipients, contractors, and lessees comply with the charter regulations?*

## EXPLANATION

As part of its oversight responsibilities, the grantee shall ensure that its affected employees, subrecipients, contractors, and lessees have the necessary competency to effectively use the FTA charter registration website. The grantee shall ensure that any subrecipient, contractor or lessee providing charter service operates the service in accordance with the regulation.

## REFERENCE

[49 CFR Part 604.16](#)  
[FTA Charter Service Quarterly Exceptions Reporting Form and Instructions](#)

## SOURCES OF INFORMATION

The reviewer will assess if and how employees, subrecipients, contractors, and lessees were trained. Oversight materials, such as reports, questionnaires, and site visit checklists will be examined, as well as subrecipient grant agreements, operating contracts, and leases to ensure that they contain the required charter bus clause. On site, the reviewer will discuss the oversight procedures. During subrecipient, contractor, and lessee site visits, the reviewer will look for indications that charter service is operated. The reviewer will ask the subrecipient, contractor, or lessee if it operates charter service and, if so, under what exception, and if the subrecipient, contractor, or lessee reported the information to the grantee for reporting to FTA.

## DETERMINATION

The grantee is deficient if it made no efforts to ensure competency in use of the FTA Charter Registration Website.

The grantee is deficient if it does not ensure that subrecipients, contractors, and lessees operate charter service in accordance with the regulation.

## SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA regional office documentation that employees, subrecipients, contractors, and lessees have been trained to effectively use the FTA Charter Registration Website.



The grantee will be directed to submit to the FTA regional office procedures for ensuring that subrecipients, contractors, and lessees comply with the charter regulations.

6. *Did the grantee on behalf of itself or a subrecipient, contractor, or lessee request an advisory opinion from the Office of Chief Counsel? If yes, what was the outcome? Was the advisory opinion followed?*

#### **EXPLANATION**

A grantee may request an advisory opinion from the Office of Chief Counsel on a matter regarding specific factual events only. An advisory opinion represents the formal position of FTA on a matter and obligates the grantee to follow it until it is amended or revoked. A request for an advisory opinion from a subrecipient, contractor, or lessee should be submitted to the grantee for submission to FTA. If not, FTA will copy the grantee on the opinion.

#### **REFERENCE**

49 CFR Parts 604.18, 604.20

#### **SOURCES OF INFORMATION**

The review will examine information provided by the grantee and on FTA's charter registration website to find out if the grantee requested an advisory opinion from the Office of Chief Counsel. The reviewer will ask the grantee to provide evidence to indicate that the advisory opinion was followed.

#### **DETERMINATION**

The grantee is deficient if it did not follow or ensure that the subrecipient, contractor, or lessee followed an advisory opinion.

#### **SUGGESTED CORRECTIVE ACTION**

The grantee will be directed to submit to the FTA regional office a plan for ensuring that it or its subrecipients, contractors, or lessees follow advisory opinions from the Office of Chief Counsel.

7. *Did any registered charter provider request a cease and desist order against the grantee, subrecipient, contractor, or lessee? If yes, what was the outcome? Was the cease and desist order followed?*

#### **EXPLANATION**

Any interested party (a grantee or registered charter service provider) may request a cease and desist

order as part of its request for an advisory opinion. Issuance of a cease and desist order against a grantee shall be considered as an aggravating factor in determining the remedy to impose against the grantee in future findings of noncompliance if the grantee provides the service described in the cease and desist order issued by the Office of Chief Counsel.

#### **REFERENCE**

49 CFR Parts 604.22 and 604.23

#### **SOURCES OF INFORMATION**

The reviewer will examine information provided by the grantee and on FTA's charter registration website to find out if any registered charter provider requested a cease and desist order(s) against the grantee, a subrecipient, contractor, or lessee from the Office of Chief Counsel. The grantee will be asked to provide evidence to indicate that the cease and desist order(s) was followed.

#### **DETERMINATION**

The grantee is deficient if it did not follow or did not ensure that a subrecipient, contractor, or lessee followed the cease and desist order(s).

#### **SUGGESTED CORRECTIVE ACTION**

The grantee will be directed to submit to the FTA regional office a plan for ensuring that it or its subrecipient, contractor, or lessee will follow cease and desist order(s) from the Office of Chief Counsel.

8. *Did any registered charter provider, or its duly authorized representative, file a complaint with the Office of the Chief Counsel against the grantee alleging noncompliance with the charter regulation? If yes, did the grantee file an answer within 30 days of the date of the FTA notification?*

#### **EXPLANATION**

A registered charter provider or its duly authorized representative may file a Notice of Charter Service Complaint with the Office of the Chief Counsel. Unless the complaint is dismissed, FTA shall notify the grantee within 30 days after receiving the complaint that the complaint has been docketed. The grantee shall have 30 days from the date of the FTA notification to file an answer. The complainant may file a reply within 20 days. The grantee may subsequently file a reply within 20 days of the date of service of the respondent's answer. There are no requirements for the grantee in the complaint process for a subrecipient.



**REFERENCE**

[49 CFR Part 604.27](#)

**SOURCES OF INFORMATION**

The review will examine information provided by the grantee and on FTA's charter registration website to find out if any registered charter provider or its duly authorized representative filed a complaint against the grantee with the Office of Chief Counsel. If applicable, the reviewer will ensure that the grantee filed an answer within 30 days from the date of service of the FTA notification to file an answer.

**DETERMINATION**

The grantee is deficient if it did not file an answer or filed an answer after 30 days.

**SUGGESTED CORRECTIVE ACTION**

The grantee will be directed to file answers to the pending FTA notification(s) and to submit to the FTA regional office procedures for submitting the answers to FTA notifications on time in the future.

## **Instructions for filling out the FTA Charter Exceptions Quarterly Reporting Form**

There are four exceptions for which a quarterly report is required:

- government officials (Section 604.6);
- qualified human service organizations (Section 604.7);
- leasing (Section 604.8); and
- no response from a registered charter provider (Section 604.9).

The form is broken into three sections.

### **Section 1 – For All Exceptions**

- This section is filled out for all exceptions.
- In the first column specify which exception you relied upon to perform the charter service according to the following codes:
  - o government officials - **GO**
  - o qualified human service organizations - **QH**
  - o leasing - **LE**
  - o when no registered charter provider responds to notice from a recipient - **WN**
- Fill out the name, address, phone number, and email address of the government organization, qualified human service organization, or group as appropriate.

### **Section 2 – For GO, QH, and WN Exceptions Only**

- This section is filled out for the government officials, qualified human service organizations, and when no registered charter provider responds to notice from a recipient only.
- Provide the requested trip information as indicated.
- For vehicle numbers please list all vehicle numbers separated by semicolons. If there's not enough room to include this information, please attach a separate sheet with the required information. When doing this, please indicate the line number by referring to the number in column "A".

### **Section 3 – For LE Exception Only**

- This section is filled out for the leasing exception only.
- For this exception supporting documentation is required.
- In column "P" list the title(s) of any documentation that supports the requirements of Section 604.8.b.3.

**\*It is very important that if you are reporting any LE exceptions that you print the form out and scan it as a PDF with the supporting documentation.**

[illegible]